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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND
PROTECTION OF HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 11 August 1999, at 3 p.m.

Chairman: Mr. HATANO

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(b) XENOPHOBIA (continued)

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The meeting was called to order at 3.05 p.m.

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION:

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES;

(b) XENOPHOBIA

(agenda item 3) (continued) (E/CN.4/Sub.2/1999/5, 6, 7 and Add.1, 8, 40; E/CN.4/Sub.2/1999/NGO/3, 4, 12; E/CN.4/1999/12, 15 and Add.1, 16 and Corr.1 and 2; Commission resolution 1999/78)

1. Ms. MORENO FONTER (International Labour Office) said that one of ILO's activities was assisting migrant-sending and migrant-receiving countries to implement ILO standards relating to the protection of migrant workers' rights. The 1998 ILO Declaration on Fundamental Principles and Rights at Work emphasized that migrant workers had special needs in the area of social protection.

2. After considering the report of the ILO Committee of Experts on the Application of Conventions and Recommendations relating to the evaluation of the application, by States parties, of ILO Conventions Nos. 97 and 143 on migrant workers, the International Labour Conference had agreed, at its eighty-seventh session, that the question of migrant workers should be included in the agenda of an early session of the Conference, with a view to revision of the ILO instruments.

3. ILO welcomed the appointment of a Special Rapporteur on the human rights of migrants, whose role would be to draw international attention to the problems of discrimination and exploitation facing migrants around the world and to work towards upholding the basic rights of migrants and their families. ILO was ready to assist the Special Rapporteur in ensuring the continued complementarity of the work of the two organizations.

4. Ms. ANDREEVSKA (Observer for The former Yugoslav Republic of Macedonia) observed that article 1, paragraph 4, of the International Convention on the Elimination of All Forms of Racial Discrimination was an important provision for disadvantaged minorities, since the "special measures" - of which affirmative action was one - taken to ensure the progress of those minorities "shall not be deemed racial discrimination". Article 2, paragraph 2, actually obliged States to take affirmative action.

5. In 1993, the World Conference on Human Rights had emphasized the universality of human rights and the relationship between democracy, development and human rights, issues which particularly affected minorities. However, the three preparatory conferences, held in Tunis, Bangkok and San José, had stressed another concept, namely, the cultural background and level of development of countries, which were considered to influence the realization of human rights. The Conference, far from ratifying that restricted view of human rights, justified by certain States which had invoked

their particular national characteristics, had unequivocally settled the question by stating that the promotion of all human rights was a legitimate concern of the international community.

6. Her delegation welcomed the fact that, at the Vienna Conference, the Council of Europe had roundly denounced anti-Semitism and that the European Parliament had adopted the strongest ever resolution on that question, namely resolution A3-0127/93.

7. Her Government was convinced that democracy and development were fundamentally linked, and that only a democratic regime could in the long term ensure the coexistence of ethnic, religious and cultural groups by minimizing the risk of conflict.

8. Mr. QIAO Zonghuai (Observer for China) said that his country fully endorsed the convening of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

9. For years, his Government had been committed to protecting the rights of the 55 minorities who lived in China and had implemented a series of effective policies, including the system of autonomy, which had changed the situation in the regions where the minorities lived.

10. The current year was the fortieth anniversary of democratic reforms in Tibet. His Government had made great efforts to promote the economic and social development of the autonomous region of Tibet, allocated funds for the renovation of monasteries and set up a substantial infrastructure. The Tibetan people were able to exercise not only constitutional rights, including the right to freedom of religion, but also various special rights provided for under the regime of autonomy. Although it was internationally recognized that Tibet formed an integral part of China, some separatists had recently been trying, in defiance of the fundamental changes in Tibet, to separate Tibet from China by using as a pretext the protection of human rights and calling for a high degree of autonomy. The Tibetan people and the Chinese people were firmly opposed to those claims. His delegation had drafted a document on the progress achieved in Tibet in the course of 40 years of efforts devoted to the development of the region. That document would give a clearer picture of the situation in Tibet.

11. Mr. MERIC (Observer for Turkey) said that the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance was of particular significance since, on the eve of the third millennium, racism continued to exist and was even growing in magnitude, adopting subtle forms.

12. The claim that racism existed all over the world was not tenable, since that view confused discrimination on grounds of race and discrimination on grounds of ethnic origin. The most extreme form taken by the latter, ethnic cleansing, had a cause - a desire to seize land. Racism could admittedly reappear in the event of economic recession, unemployment and an increase in the number of asylum seekers, but those circumstances could not be considered as real causes since there were countries where the economic situation was worse and yet there were no racist incidents.

13. One characteristic of racism was the innocence of the person subjected to it. He was "victimized" because of his physical characteristics. In that respect, the Islamophobia and Negrophobia of today had replaced the anti-Semitism of the past.

14. Since migrant workers and their families were often victims of xenophobic discrimination and violence, even when they had been legally resident in their receiving country for generations, his delegation invited the Sub-Commission to pay particular attention to that category of persons during the preparatory work for the World Conference and to prepare specific proposals concerning preventive and remedial measures. In that connection, his delegation welcomed the working papers prepared by Mr. Weissbrodt and Mr. Oloka-Onyango, and was convinced that the forthcoming studies by Mr. Pinheiro and Mr. Bossuyt would constitute very useful contributions to the Conference.

15. Mr. NEGRIN (Observer for Mexico) said that his country, which received a large number of asylum seekers and refugees, attached great importance to the defence of the human rights of migrants. Some 22,000 Guatemalan refugees, whose migration status had been regularized under a programme inaugurated in 1996 with UNHCR support, had decided to remain in Mexico, while 40,000 others had freely chosen to return to their country. On the occasion of the visit by Mrs. Ogata in July 1999, his Government had announced its intention to accede to the Convention and Protocol relating to the Status of Refugees. As to the International Convention on the Rights of All Migrant Workers and Members of Their Families, Mexico had ratified it in December 1998. He urged countries which had not yet done so to accede to that Convention in order that it could enter into force. In the meantime, it was essential to create a multilateral mechanism responsible for supervising the observance of the human rights of migrants, of whom there were about 130 million around the world, including 30 million in an illegal situation. It was precisely on Mexico's initiative that the Commission on Human Rights had decided, in March 1999, to appoint a special rapporteur on the human rights of migrants.

16. At the regional level, mention should be made of the Puebla Conference, which had been held on 28 and 29 January 1999 and had been attended by representatives of the United States and Canada, in addition to the Central American countries. That Conference had examined, in particular, the migratory flows caused by hurricane Mitch. The protection of Mexican migrants in the United States was the subject of a continuing dialogue with the latter country.

17. International migration was a phenomenon which was growing at the same rate as globalization; there was practically no country in the world that was not affected. For that reason, the international community must give priority to that question and examine, in particular, the principal obstacles to the effective enjoyment of migrants' rights, namely xenophobia and racism. In that respect, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance should provide an opportunity for taking a global approach to that question.

18. Ms. JANJUA (Observer for Pakistan) said that at the present time new forms of discrimination were emerging, such as Islamophobia, and that, despite the existence of fairly adequate international instruments, racism was rampant and more insidious than ever before. The use made of the Internet by certain extremist groups was one example. For that reason, she welcomed the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which would provide an opportunity for a vigorous reaction.

19. She associated herself with the congratulations extended by the observer for Turkey concerning the working papers of Mr. Weissbrodt and Mr. Oloka-Onyango which, together with that being prepared by Mr. Bossuyt on affirmative action and the joint study by the Sub-Commission and the Committee on the Elimination of Racial Discrimination, flagged the direction which the Sub-Commission's efforts must take. Those studies showed that the Sub-Commission had much to contribute not only to the Commission, but to the United Nations system as a whole.

20. If the question of the rights of non-citizens was taken up in a more far-reaching study, it should answer the following questions. Did the existing instruments fully protect the rights of non-citizens? To what extent was the Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live implemented in practice? What decision should be taken if the existing human rights protection mechanism proved insufficient in guaranteeing the rights of non-citizens? Did general comments command the same authority as the provisions of the international instruments?

21. In connection with Mr. Oloka-Onyango's excellent working paper on globalization in the context of the increase in incidents of racism, racial discrimination and xenophobia, she also thought that racism was on the rise and that "globalization is essentially benefiting a small, privileged minority, while ... marginalizing a considerable number", who were always the prime targets of violations. The subject was worthy of a more searching examination.

22. Her delegation was obliged to react to the fact that government-organized NGOs from India, which used them as foreign policy instruments, were attacking Pakistan under every item on the agenda, even though the subject of their statements was unrelated to the question under consideration. It was time to put a stop to those flagrant abuses.

23. Mr. FAN Guoxiang said that affirmative action should not be regarded as discrimination against persons who did not benefit from it. Some groups, notably women, minorities, older persons and disabled persons, needed the support of the State and the understanding of society.

24. In China, the Constitution accorded special treatment to minority groups, and a quota system had been established for their benefit in the public sector. No one had ever complained of being discriminated against because of that policy.

25. For his part, he preferred to speak of preferential treatment rather than affirmative action. In that connection, stress should be laid on the

fact that such preferential treatment was accorded to certain groups and did not therefore concern individual rights. Overemphasizing those rights might give rise to misunderstandings.

26. Some States have given a legal form to the protection accorded to certain groups, which is a positive development. Sometimes, an effort in the area of education might prove necessary in order to enable certain persons to understand the justification for preferential treatment of that kind.

27. On the question of action to combat racism and racial discrimination, the United Nations, and in particular the Commission on Human Rights and the Sub-Commission, must continue their efforts while taking into account the specific conditions which might exist in certain places.

28. Some persons might, on the pretext of combating racial discrimination, engage in separatist activities aimed at the break-up of a particular State. In that connection, a claim that one person could represent a nation was inadmissible.

29. It also happened that, on the pretext of wishing to promote self-determination and combat racism, some persons engaged in political activities aimed at spreading the illusion that the racial problems which existed in a particular country might give rise to intervention. Those persons sought to present that as a model applicable to other countries and other regions. Such an attitude ran counter to the action taken by the Sub-Commission to combat racial discrimination and would not assist in remedying racism. On the contrary, that policy endangered international peace and stability.

30. Mr. MAMDOUHI (Observer for the Islamic Republic of Iran) said that, unfortunately, the phenomena of racism and racial discrimination continued to grow despite the efforts of the international community to protect vulnerable groups and individuals. Muslim minorities were increasingly the target of xenophobic attacks and crimes. His delegation believed that Islamophobia should be examined both by the Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance, and by the Special Rapporteur on religious intolerance.

31. States must do everything possible to combat racism and incitement to racial hatred. In that connection, it was regrettable that the new information technologies, including the Internet, should be used to disseminate racist and xenophobic views; they should be used as a tool to promote tolerance. On the question of the Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, efforts should be made to ensure that the regional preparatory meetings had available to them the necessary resources to fulfil the very important task facing them.

32. At the fifty-fourth session of the Commission on Human Rights, his delegation had played an active part in the drafting of resolution 1998/26 entitled "Racism, racial discrimination, xenophobia and related intolerance" and had informed the Office of the High Commissioner for Human Rights that it

was prepared to host the Asian regional preparatory meeting for the World Conference. His delegation welcomed the fact that the World Conference was to be held in 2001, which had been proclaimed by the General Assembly as United Nations Year of Dialogue among Civilizations.

33. Mrs. WARZAZI, referring to questions relating to migrants, said that on reading document E/CN.4/Sub.2/1999/7/Add.1 submitted by Mr. Weissbrodt, one did not have the impression that he had complied with the Sub-Commission's request, namely, to examine ways of overcoming impediments to ratification of the International Convention on the Rights of All Migrant Workers and Members of Their Families. In paragraph 3, for example, he seemed to make light of the slow pace at which the ratification process was taking place.

34. In connection with paragraph 5, it should be borne in mind that the General Assembly had decided to formulate a convention on migrant workers because ILO had dealt only with the protection of labour rights. It was in fact because they had been reluctant to grant migrant workers political, civil, cultural and other rights that the representatives of the Western countries had at the outset opposed the formulation of such a convention. For that reason, it had taken 10 years of very tough negotiations to arrive at the adoption of the convention by consensus. It was stated in paragraph 8 that some States might not wish to extend further rights to migrants. The reply to that must be that the Convention did not set forth further rights, but rights to which every person was entitled.

35. Paragraph 10 referred to the costs to the community caused by migrants. It was not really clear what those costs were.

36. As to paragraph 13, there was a misguided tendency on the part of Governments to view migrants as an economic burden whereas they contributed to the prosperity of the countries of employment.

37. If the countries of employment were unwilling to ratify the Migrant Workers Convention, it was undoubtedly because they did not want to lose the advantage conferred on them by the restrictive provision contained in article 1, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination, an advantage which was at variance with the principle of equality of treatment. In order to facilitate the adoption of the Convention, it had been necessary, back in 1965, to exercise a certain degree of flexibility by accepting the introduction of that provision which, it should be emphasized, did not appear in the two International Conventions on Human Rights that had been adopted one year later.

38. It was that absence of a restriction which accounted for the Western countries' misgivings about a convention on migrant workers or the Declaration on the Human Rights of Individuals who are not Nationals of the Country in which They Live.

39. In that connection, it should be borne in mind, that in human rights matters it was the least restrictive international instrument that had primacy over the others. Consequently, article 1, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination was

obsolete, as borne out by the civil and political rights which certain countries, such as Belgium, the Netherlands or even France, accorded to non-citizens.

40. It was regrettable that, in its general comment 15, the Human Rights Committee should have adopted a conservative attitude to the political rights enunciated in article 25 of the International Covenant on Civil and Political Rights. It could have left a door open by stating that the political rights enunciated in that article were, in principle, applicable only to citizens.

41. She welcomed the fact that the Sub-Commission was to deal with the question of affirmative action. Affirmative discrimination was, in fact, essential in order to restore a certain equilibrium between advantaged and disadvantaged groups, notably women and coloured people. Once the balance had been restored by measures such as the setting of quotas in certain areas, there was no longer any reason to pursue an affirmative discrimination policy. In any event, affirmative discrimination constituted one of the most reliable means of ensuring the advancement of persons suffering from the consequences of discrimination and inequality.

42. Referring to the question of globalization, she wished Mr. Oloka-Onyango every success in his research into the possible links between racism and the impending new order.

43. Lastly, the Sub-Commission's contribution to the future World Conference on racism could be of great importance if Mr. Pinheiro acted on the proposals he had made in his oral presentation.

44. Mr. JOINET said that in many respects globalization was tantamount to Balkanization. The latter phenomenon was linked to racism, one of the most vicious manifestations of which was ethnic cleansing. Mr. Bossuyt should study the means, and notably institutional means, that should be used to remedy that situation and establish a genuine democracy. Democracy meant plurality of opinion, and hence the difficulties encountered with single-party regimes.

45. However, in countries where tension between different ethnic groups ran high, it was not sufficient to obey the rule of plurality of opinion. It might also be necessary to ensure that the different minorities or ethnic groups were fairly represented in the various State institutions, for example the judiciary or the army. That was an extremely sensitive matter, as had been shown in Africa by the failure of the Arusha agreements.

46. The main problem was that if one wished to pursue an affirmative action policy, one was obliged to introduce a quota system. In France, the debate which had been sparked off by the question of parity for men and women showed how complex that question was. Some had wanted to incorporate parity in the Constitution, while others had been fiercely opposed to it on the grounds that the introduction of quotas would constitute a violation of the principle of the equality of citizens.

47. In France, 57 per cent of judges were women, but only two women presided over courts of appeal. For that reason, as far as appointments were concerned, the Minister of Justice was in practice conducting a quota policy even if that term was not used.

48. Consequently, Mr. Bossuyt, who was a national of a country in which two communities cohabited, was in a very good position to study the question of affirmative action and quotas.

49. Mr. WEISSBRODT said that the debate prompted by his working paper on the rights of non-citizens (E/CN.4/Sub.2/1999/7 and Add.1) had been most informative. Some members of the Committee on the Elimination of Racial Discrimination had welcomed the joint efforts of the Sub-Commission and the Committee in that area. On the question of article 1, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination, he essentially agreed with the view expressed by Mrs. Warzazi. In that connection, it should be emphasized that that provision had less and less impact because of the interpretation placed upon it. It was to be hoped that that trend would continue since deletion of that paragraph, which Mrs. Warzazi seemed to be suggesting, would entail an amendment of the Convention, which was a fairly complex business.

50. It had been observed that the distinction drawn between citizens and non-citizens did not in itself constitute a form of racial discrimination, but non-citizens might still be subjected to discrimination.

51. He found very useful the idea that any study of discrimination against non-citizens must take account of four main factors: the different categories of non-nationals (e.g. permanent residents, temporary residents, undocumented aliens, etc.); the different categories of rights; the degree of development of the country concerned; and the reasons invoked for drawing distinctions between citizens and non-citizens. It was clearly apparent from the comments made that a much deeper review would have to be made of the jurisprudence of the European Court and the decisions of the Committee on the Elimination of Racial Discrimination, the Human Rights Committee and other bodies.

52. The Sub-Commission's Special Rapporteur on the rights of non-citizens would have to take account of the work of the Commission's Special Rapporteur on the rights of migrants since the latter group constituted a very substantial category of non-citizens.

53. Much of document E/CN.4/Sub.2/1999/7/Add.1 was devoted to impediments to ratification of the Migrant Workers Convention. He did not necessarily endorse the arguments which were adduced by certain States to justify their reluctance to ratify the Convention and which he outlined in that document. Having said that, he shared Mrs. Warzazi's opinion that the study should also cover questions relating to ratification of the Convention.

54. In view of its importance, the question of trafficking in human beings would also have to be taken up in the study. The question of the Roma should be the subject of a separate study.

55. The CHAIRMAN declared closed the discussion on agenda item 3.

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS:

(a) THE INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS;

(b) THE REALIZATION OF THE RIGHT TO DEVELOPMENT;

(c) THE QUESTION OF TRANSNATIONAL CORPORATIONS;

(d) THE REALIZATION OF THE RIGHT TO EDUCATION, INCLUDING EDUCATION IN HUMAN RIGHTS

(agenda item 4) (E/CN.4/Sub.2/1999/10, 11, 12, 30 and 33; E CN.4/Sub.2/1999/NGO/5, 8 and 14; E/CN.4/Sub.2/1998/6; E/CN.4/1999/50)

56. Mr. MEHEDI, introducing his report on the realization of the right to education, including education in human rights (E/CN.4/Sub.2/1999/10), said that it related to a subject which the Sub-Commission had been the first to take up and which had already been the subject of a study the previous year. The present report was aimed at defining more precisely the content of the right to education, a right which was "transversal"; in other words, it must be considered simultaneously as a civil, political, economic, social and cultural right.

57. It was apparent from a reading of the principal international legal instruments that the prime aim of education was the development of the human person, but that development must be primarily based on the values which underlay human dignity, namely, freedom and responsibility. In other words, education must be oriented towards "responsible citizenship". It was because they had been closely aware of the fact that totalitarian systems had used education to perpetuate a "single way of thinking" that the drafters of the international legal instruments had placed education at the service of the development of the human person and established that responsibility for such education lay exclusively with parents.

58. The recognized priority of personal aims in no way detracted from the importance of the social aims, since the human person could fully develop only in a relational environment steeped in the values that underlay human rights.

59. The following basic guidelines could be formulated in that connection: access to education must be ensured without any form of discrimination; a minimum level of education must be guaranteed, below which the individual could not enjoy his fundamental freedoms; education must be differentiated, which meant that cultural and social differences must be taken into account; and lastly, the person educated - whether a child or adult - must have a right of participation, in other words, he must be regarded as a protagonist.

60. On the question of free education, all costs entailed by enrolling a child in school must be covered, since they could constitute a genuine obstacle to education and, hence, de facto discrimination.

61. As to the compulsory nature of education, it had finally been understood that the term "compulsory" associated with the word "education" in fact meant protection of the rights of the child by making education a duty towards the child for both the State and for the family. That obligation was, in fact, not incompatible with freedom of choice since the State did not have a monopoly on education and article 13 of the International Covenant on Economic, Social and Cultural Rights, among other provisions, recognized the right to found and direct educational establishments.

62. The scope of the right to education fell within three concentric circles: the first circle was that of the individual, the person receiving education; the second circle corresponded to the local community within which the person was called upon to play an active and creative role; and the third circle was that of the human community as a whole. Those apparently simple principles in fact required of the protagonists of education that they enter upon innovative paths, either in order to introduce universal concepts into a too individualist approach to education, or to redirect excessively ideological education towards the individual and his irreducibility to any utilitarian definition.

63. Mr. OLOWU ONYANGO introduced document E/CN.4/Sub.2/1999/11, which he had written jointly with Ms. Deepika Udagama. The fundamental idea behind the study was that current international practices in the commercial, financial and investment fields, far from having only beneficial effects, according to an increasingly widespread belief, resulted in job losses, destruction of the environment and intolerable levels of exploitation. In other words, the world market was hardly characterized by equality, non-discrimination and sustainable human development. The collapse of the "Asian tigers" had shown dramatically that, in the absence of any control, market forces could have devastating consequences in economic and social terms.

64. In their study, Ms. Udagama and he recalled that the main objective of international commercial, financial and investment practices must be to promote and protect human rights and sustainable human development. In that context, it was necessary to ensure that the major multilateral institutions, namely WTO, IMF, the World Bank, WIPO and OECD, became more aware of their obligations under the international human rights instruments.

65. The unsuccessful plan to establish a Multilateral Agreement on Investment (MAI) had confirmed the worst fears aroused by globalization in that MAI represented the total negation of all the fundamental principles relating to human rights. Any multilateral regime must first and foremost be genuinely multilateral, and must also take into account the fundamental rights and interests of countries and communities, and not only those of investors.

66. Ms. UDAGAMA recalled that over the years the Sub-Commission had focused on issues relating to economic, social and cultural rights in exemplary fashion, reaffirming the fundamental principle of the indivisibility of human rights. In that context, the working paper submitted for the attention of the Sub-Commission was particularly timely.

67. The liberalization of international trade, investment and finance regimes, which had become the sacrosanct ideology of the multilateral

institutions, had serious consequences in the area of human rights. The most pernicious manifestation of that new ideology, which took the form of multilateral or bilateral investment and trade agreements, was the blatant exploitation of developing countries. Admittedly, the MAI had been shelved for the moment in the face of opposition mainly from NGOs, but there was a danger that other agreements of that kind might reappear under the auspices of other institutions such as WTO.

68. The biggest challenge facing international human rights bodies was to formulate a regulatory framework which the multilateral institutions should abide by when formulating policy. Currently, those institutions, notably the World Bank and IMF, subordinated the international human rights regime to their own charters. For those institutions, taking account of human rights was almost tantamount to making a concession, which was totally unacceptable, both legally and morally. It was intolerable that globalization and its consequences should have the effect of violating the basic tenets of international law laid down in the Charter of the United Nations.

69. There was no question of returning to protectionism or State-controlled economies. What was needed was to ensure that international economic activities took place within a solid human rights framework. But in order to construct such a framework, it was important to examine further and more fully the impact on human rights of international trade, investment and financial policies. Such a study could be incorporated into a larger study on globalization, as had been suggested by the Commission on Human Rights. It would add to the work done by the Commission and the Sub-Commission on questions such as the implications of structural adjustment programmes and the activities of transnational corporations. Such an initiative should above all lead to the formulation of regulatory frameworks and the establishment of supervisory bodies so that international economic activity would have human development as the ultimate goal.

70. Mr. GUISSÉ recalled that, the previous year, when he had submitted his paper on transnational corporations (E/CN.4/Sub.2/1998/6), he had proposed that the Sub-Commission should establish a sessional working group to study that question. The Sub-Commission having accepted that proposal, the working group had been set up and had met on 3, 6 and 10 August 1999 under his chairmanship. It had been composed of five members representing the five major regions of the world; they had been spontaneously joined by other members of the Sub-Commission and NGOs, who had made a very useful contribution to its work. Among the latter, he referred to the American Association of Jurists, Pax Romana, Habitat International, the International Confederation of Free Trade Unions and the Centre Europe - tiers monde.

71. On the initiative of the members, the working group's agenda had been expanded in order to cover the whole question of transnational corporations, including the draft code of conduct for transnationals which Mr. Weissbrodt would present at the Sub-Commission's next session. For his part, Mr. Eide intended to make a compilation of existing instruments on the question; that compilation would also be introduced at the following session. His own objective was to establish a draft mechanism for implementation of the decisions that would be taken in the context of human rights and transnational corporations.

72. In the report he had prepared (E/CN.4/Sub.2/1999/9), the working group had made a number of recommendations to the institutions associated with the United Nations system. He stressed the fact that that work could not be done in a confrontational manner but required a consensus among States, transnational corporations, the international community and civil society. The aim was not to set the various parties against one another, but rather to devise a framework in which all could collaborate in the formulation of standards intended to regulate the activities of transnational corporations. The aim was also to give those parties a sense of responsibility concerning the application of those standards.

73. Mr. ZHONG said that human rights had never been universal - in times of slavery, in feudal times or during the colonial era. However, after the Second World War and the defeat of the Axis Powers, the universality of human rights had clearly made progress. Thus, the Charter of the United Nations and the Universal Declaration of Human Rights enunciated solemn principles in that area. Another factor for progress had been the accession to independence of a large number of developing countries, countries which had a common history and shared the same aspirations. In the United Nations and other international bodies, those countries had made common cause in support of peace and global development, notably by encouraging the establishment of a new international economic order. Similarly, they had contributed to the formulation and adoption by the United Nations General Assembly of a large number of international human rights instruments, and more particularly to recognition of the right to development as a key element in the universality of human rights.

74. Unfortunately, the efforts of the developing countries to improve the lot of their peoples were being severely jeopardized by the existence of an unjust and inequitable international economic order, which was reflected in the burden of debt service, international financial speculation, the monopoly on patents, etc.

75. In that respect, it must be emphasized that injustice throughout the world had worsened: thus, the developing countries, which embodied 79 per cent of the world's population, accounted for only 20 per cent of global GDP; in addition, 90 per cent of the world's poor (1.5 billion people) lived in developing countries. In that context, he recalled that the realization of the right to development required not only efforts by the developing countries, but also a favourable international climate, from which all nations would benefit. Without the right to development, the major principles enunciated in the Universal Declaration of Human Rights would remain a dead letter.

76. Mr. GLAVICH (American Association of Jurists) said that his organization had submitted three documents on the realization of economic, social and cultural rights. The first stressed the fact that human rights education must not be limited to informing, but must also help to train, in other words, to develop a critical spirit in individuals. The second document listed the impediments to realization of the right to development in Africa, which was a victim not only of the declining prices of its main exports on international markets, but also of neo-liberal and neo-colonial policies.

77. The third document concerned the international monetary system. It contained an analysis of speculative movements of international capital, estimated at $1.5 billion a day. The predominance of essentially American speculative financial capital largely accounted for the gap which existed between the huge fortunes of a minority and the growing poverty, not to say abject poverty, of a large portion of mankind. It was in that context of financial dictatorship that the policies of the principal transnational enterprises must be placed. They obeyed three related imperatives: maximize profits, ensure a high level of profitability of capital, and achieve the highest possible level of competitiveness.

78. Only the end of the dictatorship of capital and the restoration of the primacy of political considerations, in other words, the democratic participation of citizens in the management of the economy, could lead to genuine human development.

79. Mr. PORRET (Association of World Citizens) said that, since the fall of Communism, ultra-liberalism had grown enormously. The Bretton Woods institutions, which had been set up to aid reconstruction, no longer played the beneficial role which had been assigned to them, but helped to impose a single authoritarian development model. WTO, in particular, was an instrument in that policy. In addition, mergers of companies and banks had taken place with scant respect for workers' rights.

80. However, certain more balanced trends were emerging. Thus, the World Bank seemed to be changing its attitude towards indigenous populations. At the same time, his organization welcomed the work undertaken within the context of the Commission on Human Rights and the Sub-Commission on questions relating to economic and social rights linked to globalization.

81. Ms. TANAKA (International Movement against All Forms of Discrimination and Racism) said that her organization had actively helped to promote the Plan of Action for the United Nations Decade for Human Rights Education (1995-2004). Thus, the Movement's Japanese committee had co-sponsored a three-day conference on the subject, at which the participants, from 13 countries, had agreed that Governments should provide human rights training to military and paramilitary forces, security forces and prison personnel.

82. In order to promote human rights education, her organization would like to make the following recommendations: the United Nations bodies should pay increased attention to the Decade for Human Rights Education; the Office of the High Commissioner for Human Rights should create a special page on its Website to promote the Decade; countries which had not yet designated a coordination officer responsible for promoting human rights education should collaborate with NGOs for that purpose; the Office of the High Commissioner should compile and disseminate information on good practices of private companies in that area.

The meeting rose at 6 p.m.